

PROCUREMENT BILL
AMENDMENT TO BE MOVED AT COMMITTEE STAGE

Clause 11, page 8, line 38

Leave out subsection (1)(d)

Effect

This removes the requirement for a contracting authority to have regard to the importance of acting, and being seen to act, with integrity.

Reason

Clause 11(1)(d) imposes a duty to "have regard to the importance of...acting...with integrity". It is not clear why it is seen as appropriate that a contracting authority should not have a duty to act with integrity, which is clearly a more substantive obligation than a duty to have regard to the importance of doing so. We therefore suggest that this duty be amended.

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Clause 11, page 8, line 38

At end insert

“() In carrying out a procurement, a contracting authority must act, with integrity.”

Effect

This is a consequential amendment.

This inserts a duty on a contracting authority to act with integrity in carrying out a procurement.

Reason

This is a consequential amendment.

Clause 11(1)(d) imposes a duty to "have regard to the importance of...acting...with integrity". It is not clear why it is seen as appropriate that a contracting authority should not have a duty to act with integrity, which is clearly a more substantive obligation than a duty to have regard to the importance of doing so. We therefore suggest that this duty be inserted.

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Clause 22, page 15, line 18

At end insert

“() take account of the environmental impact of the award”

Effect

This amendment requires a contracting authority to be satisfied that the award criteria take account of environmental impact.

Reason

Clause 22 concerns award criteria, which means criteria against which tenders may be assessed for the purpose of awarding a public contract (under clause 18 - award following competitive procedure). We consider that it may be appropriate to impose an obligation on contracting authorities to include award criteria concerning the environmental impact of the contract unless the contracting authority considers that to do so would breach the conditions set out in clause 22(2). At the very least information on a bidder's environmental credentials could be sought as part of the standard supplier registration questionnaire.

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Clause 83, page 54, line 3

Leave out "A Minister of the Crown or"

Effect

This removes the power for a Minister of the Crown to make regulations under clause 83.

Reason

Clause 83 provides a power for a Minister of the Crown or the Scottish Ministers to make regulations for the purpose of ensuring that treaty state suppliers are not discriminated against in the carrying out of devolved procurements. We note that under Schedule 5, paragraph 7(1) of the Scotland Act 1998, international relations are a reserved matter. However, paragraph 7(2) makes clear that observing and implementing international obligations are not reserved matters. Removing the provision under clause 83(1) for a Minister of the Crown to make such regulations ensures compliance with the provisions of the Scotland Act.